



GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Water Rights

KENT L. JONES, P.E.
State Engineer/Division Director

September 29, 2010

To whom it may concern:

The Utah State Engineer who is charged under Utah law with the "general administrative supervision of the waters of the state and the measurement, appropriation, apportionment, and distribution of those waters" by this communication notifies parties which may be interfering with the lawful distribution of the waters of the state to entitled water right holders on the Strawberry and Duchesne Rivers that such action may constitute a taking under the United States and Utah Constitutions should the aggrieved parties be able to demonstrate that a loss has occurred. The State Engineer understands that the United States acting through the Environmental Protection Agency (EPA) is exercising management responsibility over the river to expedite the removal of hazardous waste, a noteworthy and important objective which is supported by the State of Utah and local water users. In that capacity the EPA is currently limiting the delivery of water in the river contrary to the wishes of those with rights to the use of the water. Under extraordinary circumstances like those, which have occurred with the release of this waste into the Strawberry River, the State Engineer recognizes restraint and cooperation from all parties will produce the most reasonable outcome and is hopeful the situation can be expeditiously resolved. It is hoped cooperation among the parties may continue until the emergency need is abated but I feel compelled to bring to the attention of all participating in the cleanup effort that there are rights to the use of water which must be considered as part of this effort.

Thank you for your efforts to maintain the quality of our precious public waters. If you wish to discuss this issue further please feel free to contact me at (801) 538-7371.

Sincerely,

Kent L. Jones, P.E.
State Engineer

KLJ/mtb

